

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

GREYSTONE BANK,

Plaintiff,

v.

No. 1:11-cv-01291-JDB-egb

ST. JOHN APTS., LLC, and
IRENE A. HOLLADAY,

Defendants.

ORDER ADOPTING IN PART AND REJECTING IN PART
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

On January 10, 2012, the Clerk declared Defendants, St. John Apts., LLC and Irene A. Holladay, to be in default pursuant to Federal Rule of Civil Procedure 55(a) after having been served with a summons and complaint on October 13, 2011 and October 17, 2011, and not filing a timely answer. (Docket Entry ("D.E.") No. 12.) Plaintiff, Greystone Bank, then moved for a default judgment pursuant to Rule 55(b)(1), which the Court referred to United States Magistrate Judge Edward G. Bryant for a report and recommendation. (D.E. Nos. 13, 15.) On February 10, 2012, Judge Bryant issued a report and recommendation, finding that Plaintiff should be awarded a default judgment of \$370,783.45, together with interest at a per diem rate of \$105.02 beginning January 19, 2012, and all additional costs of collection, including additional attorney's fees. (D.E. No. 16.) According to the Court's docket, no objections to the magistrate judge's report and recommendation have been filed pursuant to 28 U.S.C. § 636(b)(1), and the time for filing objections has passed. See Fed. R. Civ. P. 72(b).

After a review of the magistrate judge's report and recommendation, the Court ADOPTS IN

PART and REJECTS IN PART Judge Bryant's findings and recommendations. The Plaintiff's motion for default judgment is GRANTED insofar as it requests the aggregate principal outstanding on the notes, attorney's fees and expenses incurred as of January 18, 2012, as well as interest accrued as of that date and accruing in the future. Accordingly, judgment shall be entered for Greystone Bank in the amount of \$370,783.45, together with interest at a daily rate of \$105.02 beginning January 19, 2012. This judgment shall be awarded against St. John Apts., LLC and Irene A. Holladay, jointly and severally. However, the Plaintiff's request for all additional costs of collection, including additional attorney's fees, is not a "sum certain" under Fed. R. Civ. P. 55(b)(1) and is therefore DENIED. To recover future costs and fees, the Plaintiff must submit to the Court an itemization of such costs and fees, along with an affidavit in support, after they are incurred.

IT IS SO ORDERED this 28th day of February, 2012.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE